

JAN 13 2006**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT****UNITED STATES OF AMERICA,****Plaintiff - Appellee,****v.****DARRELL JAY PELVIT,****Defendant - Appellant.****No. 04-30366****D.C. No. CR-03-00053-RFC****MEMORANDUM***

**Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, District Judge, Presiding**

Submitted January 9, 2006**

Before: HUG, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Darrell Jay Pelvit appeals from his 160-month prison sentence after pleading guilty to manufacturing and conspiracy to manufacture more than 50 grams of methamphetamine within 1000 feet of a public playground in violation of 21 U.S.C. §§ 841(a)(1); 846; and 860, and possession of firearms during, and in

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

relation to, a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i).

We have jurisdiction under 28 U.S.C. § 1291.

We remand the sentence for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc).

REMANDED.